

Remarks

The applicant thanks the Examiner for his consideration of the application and for allowing claims 13-17, as well as for the courtesy of an interview on June 14, 2006. In the interview, the prior art and possible amendments to the rejected device claims were discussed. The Examiner said he would consider the amendment submitted and perform any new searching that might be required.

With this amendment, device claims 1 and 4 have been amended to require that the implant be “adapted to cause food from the esophagus to bypass the stomach and an upper area of the small intestine.” Support for this amendment may be found at page 6, line 33 to page 7, line 14 of the application.

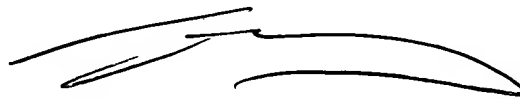
Claims 1-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Rockey WO 88/05671 or by Chevillon US 2002/0022891. The applicant respectfully submits that neither Rockey nor Chevillon anticipates—or suggests—a structure that can “cause food from the esophagus to bypass the stomach and an upper area of the small intestine.” Chevillon is directed to an inflatable stent used for human blood vessels, and there is no suggestion for adapting the structure of Chevillon to that claimed in the present device claims. Rockey is directed to a sleeve which also has a very different structure from that being claimed. Thus, it is

respectfully submitted that the device claims as amended can be neither taught by or suggested by the prior art.

Therefore, in view of the foregoing remarks, all the pending claims are patentable over the cited art. Accordingly, applicant respectfully requests reconsideration of the rejected claims and a notice of allowance.

The Commissioner is also hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to Deposit Account No. 19-4972.

Respectfully submitted,



Timothy M. Murphy
Registration No. 33,198
Attorney for Applicants

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618
(617) 443-9292

02757/00101 515047.1